

LAW OFFICE OF DENNIS J. DUNCAN
385 ELM STREET
KEARNY, NEW JERSEY 07032
PH: (973) 743-7100 FAX: (973) 743-7101
ATTORNEYS FOR DEFENDANT,
RICHARD "VINCE" LAMB

RECEIVED
MAR 29 2012
AT 8:30 WILLIAM T. LSA
CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY - TRENTON

CHARLES NOVINS, ESQ. P.C. and	:	Civil Action No. 09-CV-5354-AET-DEA
CHARLES NOVINS, Personally,	:	
Plaintiffs,	:	
	:	
v.	:	DECLARATION OF DENNIS J.
	:	DUNCAN REGARDING FILING OF
Kevin A. Cannon, et al.	:	CERTAIN MOTION PAPERS UNDER
	:	SEAL PURSUANT TO <i>L. Civ. R. 5.3</i>
Defendants	:	
	:	
	:	
	:	
	:	
	:	
	:	
	:	

I, **DENNIS J. DUNCAN**, of full age, hereby certify as follows:

1. On March 23, 2012 I filed a motion to correct and modify the record pursuant to *Fed. R. APP.P. 10(e)(2)(B)* for defendant and counterclaimant Richard Vince Lamb. In support of that motion I filed a separate declaration with eighteen documents which my client requests be place in the District Court record. That declaration was filed under seal because of the relief requested. In other words, if counsel filed the declaration and exhibits in the usual fashion (that is, not under seal) they would become part of the record available for review by the public. The declaration was filed under seal because it attached a proposed agreed statement of proceedings conducted by the Magistrate Judge in this action and a proposed settlement agreement. (See discussion below).

2. Among those documents attached to my March 23, 2012 declaration are a proposed agreed statement identified as "**Exhibit A**" (proposed transcript of February 9, 2011 status conference before Magistrate Judge Arpert) and a proposed confidential settlement agreement identified as "**Exhibit L**."

3. With respect to Exhibit A, my understanding of the Court Rules is that transcripts, whether generated by a court reporter from audio recordings or prepared under Fed. R. App. P. 10(c) must remain under seal until the Judge has a chance to review the accuracy of the record. To that end, I am in the process of working with all counsel to get the original agreed statement to Judge Arpert by March 19, 2012. (See March 27, 2012 e-mail to Charles Novins attached as "**Exhibit A**") Accordingly, Judge Arpert will have a chance to review that document.

4. With respect to Exhibit L, my understanding of the Court Rules is proposed settlement agreements must remain confidential absent consent from all parties.

WHEREFORE, defendant and counterclaimant Richard Vince Lamb requests that the March 23, 2012 Declaration and exhibits be filed and maintained under seal pursuant to *L. Civ. R. 5.3* until the court orders otherwise as to that document in its entirety, or as to parts thereof.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Law Office of Dennis J. Duncan
Attorneys for Defendant,
Richard "Vince" Lamb

By: /s/ Dennis J. Duncan
Dennis J. Duncan

Dated: March 27, 2012

So Ordered this 28th day
of March, 20 12
Douglas E. Arpert
Douglas E. Arpert, U.S.M.J.

Unopposed/Consent